

**REMARKS**

The specification has been amended to correct minor typographical errors. And claims 1, 2 and 8 have been amended to conform to U.S. claiming practice, and in the case of claim 8, to address the informality noted by the Examiner. No new matter has been entered by any of the foregoing amendments.

Turning to the Examiner's rejection of claims 1-6, 8-9 and 12-13 under 35 USC § 102 as anticipated by Terayama et al. (U.S. Patent 6,541,840), the Examiner's rejection is in error. Claim 1 requires a device forming portion provided on a second conductivity type semiconductor layer which is provided on a first type semiconductive layer and a capacitor formed between the first and second semiconductor layers. Nowhere does Terayama et al. teach this feature. Terayama et al. only teaches a capacitor formed between a device forming a portion and a second semiconductor layer. Thus, Terayama et al. cannot anticipate or render obvious Applicants' claims 1-6, 8-9, or 12-13.

As for the rejection of claim 11 as obvious over Terayama et al. in view of Disney (U.S. Patent 6,768,171), and the rejection of claims 7 and 10 as obvious over Terayama et al. in view of Kawaguchi et al. (U.S. Patent 6,259,136), claims 7, 10 and 11 depend directly or indirectly from claim 1, and are therefore patentable for the reasons discussed above relative to claim 1. Furthermore, neither Kawaguchi et al. nor Disney provides the missing teachings to claim 1 to achieve or render obvious Applicants' claim 1. Nowhere does Kawaguchi et al. or Disney teach a capacitor formed between a first and second semiconductor layer. Thus, no combination of Terayama et al. or Disney can achieve or render obvious claim 1 or claims 7, 10 and 11 which depend thereon.

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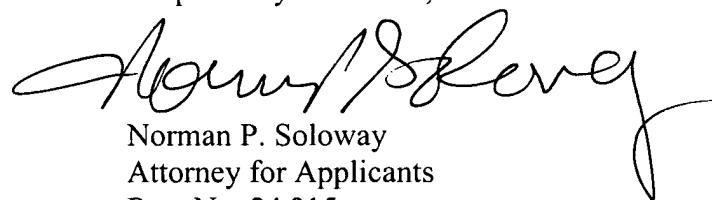
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The finality of the restriction requirement is noted. Applicants confirm their election of claim group I, and request that the non-elected claims be maintained in this application, without further action, for possible rejoinder and/or for filing of a divisional application.

Having dealt with all the objections raised by the Examiner, the Application is believed to be in order for allowance. Early and favorable action is respectfully requested.

In the event there are any fee deficiencies or additional fees are payable, please charge them (or credit any overpayment) to our Deposit Account Number 08-1391.

Respectfully submitted,

  
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

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